

1 KING, HOLMES, PATERNO & SORIANO, LLP
HOWARD E. KING, ESQ., STATE BAR NO. 77012
2 HEATHER L. PICKERELL, ESQ., STATE BAR NO. 346211
HPICKERELL@KHPSLAW.COM
3 1900 AVENUE OF THE STARS, TWENTY-FIFTH FLOOR
LOS ANGELES, CALIFORNIA 90067-4506
4 TELEPHONE: (310) 282-8989
FACSIMILE: (310) 282-8903

5 Attorneys for Plaintiff WESLEY EISOLD

6
7
8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA
10 WESTERN DIVISION

11 WESLEY EISOLD, an individual ,
12 Plaintiff,
13 vs.

14 CODY GARRETT RUNNELS, an
individual; WORLD WRESTLING
15 ENTERTAINMENT, LLC, a Delaware
limited liability company; and
16 FANATICS, LLC, a Delaware limited
liability company,
17 Defendants.

CASE NO. 2:24-cv-07516-AB (MARx)

SECOND AMENDED COMPLAINT

- (1) BREACH OF CONTRACT;
(2) INDUCING BREACH OF
CONTRACT;
(3) INTENTIONAL
INTERFERENCE WITH
CONTRACTUAL
RELATIONS;
(4) FEDERAL TRADEMARK
INFRINGEMENT [15 U.S.C.
§ 1114];
(5) UNFAIR COMPETITION
[CALIFORNIA BUSINESS &
PROFESSIONAL CODE
SECTION 17200 ET SEQ.]**

DEMAND FOR JURY TRIAL

21 ///
22 ///
23 ///
24 ///
25 ///
26 ///
27 ///
28

1 Plaintiff Wesley Eisold alleges:

2 **PRELIMINARY STATEMENT**

3 1. This is an action for federal trademark infringement under the Lanham
4 Act, 15 U.S.C. § 1141; breach of contract, inducing breach of contract, and
5 intentional interference with contractual relations under California common law;
6 and unfair competition under California Business & Professional Code Section
7 17200 et seq.

8 2. Wesley Eisold is the lead singer of the renowned punk rock band
9 American Nightmare. Eisold holds the registered trademark “American Nightmare”
10 in pre-recorded music, clothing and apparel, and entertainment services (“Eisold
11 Mark”). Eisold sells counterculture-style clothes and merchandise often featuring
12 the words “American Nightmare,” a logo of a black-and-white winged angel of
13 death, the American flag’s stars and stripes, or a logo of a stars-and-stripes shield
14 with wing-like baseball bats (“Eisold Apparel”).

15 3. Defendant Cody Garrett Runnels, professionally known as Cody
16 Rhodes, is a world-famous wrestling “Superstar” of Defendant World Wrestling
17 Entertainment, LLC (WWE). Runnels promotes himself as “The American
18 Nightmare.”

19 4. Runnels attempted to register the trademark “The American
20 Nightmare” (“Runnels Mark”), which Eisold opposed. The two then entered into a
21 settlement agreement. Eisold allowed Runnels to use (but not register) the Runnels
22 Mark in clothing and apparel on the express condition that the only clothes and
23 apparel that Runnels was allowed to sell had to prominently feature Runnels’ name,
24 Runnels’ name and likeness, or significant indicia of wrestling—which must be 75%
25 or larger than the Runnels Mark.

26 5. Runnels, WWE, and Defendant Fanatics, LLC (“Fanatics”) sell apparel
27 that blatantly violate the express conditions in the settlement agreement and Eisold’s
28 trademark (“Runnels Apparel”). The Runnels Apparel are brandished with the

1 words “American Nightmare” but do not include Runnels’ name, his name, likeness,
2 or indicia of wrestling (or do so in puny fashion). The counterculture-style clothes
3 often feature a winged skull embossed with the stars and stripes, a black-and-white
4 winged skull, or various representations of the U.S. flag.

5 6. Widespread confusion about Runnels’ use of the Eisold Mark persists
6 among WWE fans and Runnels’ fans. Legions of American Nightmare fans ask
7 Eisold if he endorses Runnels or the wrestler’s use of the Eisold Mark and his
8 image. Eisold’s fans frequently buy the Runnels Apparel by accident, Runnels’ fans
9 regularly buy the Eisold Apparel by mistake, and fans of both inadvertently make
10 and purchase apparel that mix references to both the band and to Runnels.

11 7. Eisold’s many requests that Defendants stop their infringing conduct
12 have fallen on deaf ears. He now sues for damages and injunctive relief.

13 **JURISDICTION**

14 8. This Court has subject matter jurisdiction over the federal question
15 claims under 15 U.S.C. § 1121(a) and 28 U.S.C. §§ 1331 and 1338.

16 9. Eisold’s state law claims and federal question claims are related and
17 arise from the same case or controversy. So, this Court has supplemental jurisdiction
18 over the state law claims under 28 U.S.C. § 1338(b) and § 1367(a).

19 **VENUE**

20 10. Venue in this Court is proper under 28 U.S.C. § 1391(b)(2) because a
21 substantial part of the events or omissions giving rise to Eisold’s claims occurred in
22 this judicial district and a substantial part of the property that is subject of the action
23 is situated in this judicial district.

24 11. Should this Court decide that venue is not satisfied under 28 U.S.C. §
25 1391(b)(1) and (b)(2), venue is proper under 28 U.S.C. § 1391(b)(3) because
26 Defendants are subject to this Court’s personal jurisdiction in this judicial district.

27 **PARTIES**

28 12. Plaintiff Wesley Eisold is an individual who resides in Los Angeles,

1 California.

2 13. Defendant Cody Garrett Runnels is an individual who resides in Fulton
3 County, Georgia.

4 14. Defendant World Wrestling Entertainment, LLC is a limited liability
5 corporation formed under the laws of Connecticut and has its principal place of
6 business at 707 Washington Blvd., Stamford, CT 06901.

7 15. Defendant Fanatics, LLC is a limited liability company formed under
8 the laws of Delaware and has its principal place of business at 95 Morton St, 4/F,
9 New York, NY 10014.

10 **FACTS**

11 **A. In 1999, musician Wesley Eisold co-founded American Nightmare, the**
12 **critically acclaimed punk rock band.**

13 16. Plaintiff Wesley Eisold is a musician known for his contributions to the
14 punk rock, hardcore punk, emo, synthpop, darkwave, and EDM genres.

15 17. Around 1999, Eisold co-founded the critically acclaimed punk rock
16 band, American Nightmare. Eisold has always been the lead vocalist and frontman
17 of the band. For the past 20 years, American Nightmare and Eisold have had an
18 indelible impact on the punk rock genre, and Eisold has been an accomplished co-
19 writer of other artists.

20 18. American Nightmare rehearses, records its music, and maintains its
21 instruments, recording equipment, and concert equipment in Los Angeles. The
22 band's booking agent, United Talent Agency, is also in Los Angeles. They have
23 staged and performed at concerts as recently as 2023, including concerts in Santa
24 Ana, Los Angeles, and San Francisco.

25 **B. Eisold owns the trademark "American Nightmare" in clothing and**
26 **apparel, entertainment services, and pre-recorded media.**

27 19. Eisold is the owner of the valid and subsisting trademark consisting of
28 the word "American Nightmare" ("Eisold Mark").

1 20. On November 29, 2016, Eisold registered the Eisold Mark with the
2 U.S. Patent and Trademark Office (“USPTO”). The Eisold Mark’s U.S. Trademark
3 Registration No. is 5,089,055 on the Principal Register in the USPTO. Eisold owns
4 the mark in pre-recorded media (class 9), clothing and apparel (class 25), and
5 entertainment services (class 41). A true and correct copy of the registration
6 certificate and an image of the Eisold Mark are attached as Exhibit 1.

7 21. The Eisold Mark has attained incontestable status under Section 15 of
8 the Lanham Act, 15 U.S.C. § 1065.

9 **C. Eisold sells counterculture clothes and merchandise featuring the words**
10 **“American Nightmare,” a black-and-white winged angel of death, the**
11 **American flag’s stars and stripes, and a stars-and-stripes shield with**
12 **wing-like baseball bats.**

13 22. Since American Nightmare’s inception in 1999, Eisold has
14 continuously manufactured, distributed, advertised, and sold clothes and apparel—
15 including t-shirts, hoodies, crewnecks, and buttons—featuring the Eisold Mark
16 throughout the United States (including in California) and internationally (“Eisold
17 Apparel”).

18 23. The Eisold Apparel are popular among fans of American Nightmare
19 and, more generally, persons who love counterculture and punk rock clothes. The
20 clothes feature the Eisold Mark (i.e., the words “American Nightmare”) and
21 common motifs. Frequently used images include a logo composed of a black-and-
22 white angel of death with two large white wings (“Eisold Angel Logo”), the stars
23 and stripes of the American flag, and a logo consisting of a stars-and-stripes shield
24 interposed on two baseball bats forming an “X,” emulating wings (“Eisold Shield
25 Logo”).

26 24. Eisold’s other merchandise also combine the recurring tropes featured
27 on the Eisold Apparel. As examples, one of American Nightmare’s EPs, *Year One*,
28 features the Eisold Angel Logo superimposed on the stars and stripes. The band’s

1 vinyl releases of its 2000 studio album *American Nightmare* feature the text
2 “American Nightmare” superimposed on the American flag. An American
3 Nightmare poster from 2000 features a skull wearing an “Uncle Sam” American
4 flag-styled hat. Versions of the band’s EP *The Sun Isn’t Getting Any Brighter*
5 feature the Eisold Angel Logo in red, white, or blue, mirroring the American flag.
6 And the band’s 1999 album *4 Song Demo* features the Eisold Shield Logo as well as
7 the text “American Nightmare.”

8 25. Pictures of representative samples of the Eisold Apparel and
9 merchandise featuring the Eisold Mark, Eisold Angel Logo, and Eisold Shield Logo
10 are attached as Exhibit 2.

11 26. Eisold makes tens of thousands of dollars every month from selling the
12 Eisold Apparel. He manufactures the Eisold Apparel in Los Angeles and manages
13 the marketing and sales of the apparel through the American Nightmare website, at
14 the band’s concerts, and via third-party distributors.

15 **D. Defendant Cody Runnels—the world-famous wrestler who promotes**
16 **himself as “The American Nightmare”—wrestled with Defendant World**
17 **Wrestling Entertainment (WWE) from 2007 to 2016.**

18 27. Defendant Cody Runnels is a famous wrestler. His pseudonym is
19 “Cody Rhodes,” and his stage name is “The American Nightmare.” This moniker is
20 an ode to Runnels’ father, Dusty Rhodes, who went by “The American Dream.”

21 28. Music and clothes associated with counterculture, including punk rock,
22 are central to Runnels’ “The American Nightmare” persona. For example, the song
23 *Kingdom* by the band Downstait, which draws heavily on both punk rock and rock
24 n’ roll, plays as Runnels’ walk-on song and when he triumphs over his opponents in
25 the arena.

26 29. Runnels’ star rose in the wrestling world when he wrestled for
27 Defendant World Wrestling Entertainment, LLC (WWE) between 2007 and 2016.

28 30. WWE is a popular “professional wrestling promotion.” It is a media

1 and entertainment company that produces and promotes live wrestling matches and
2 distributes videos of these matches internationally via television and online. WWE
3 hosts wrestling matches throughout the world, including in California.

4 **E. When Runnels was associated with All Elite Wrestling, he sought to**
5 **trademark “The American Nightmare” in entertainment services, which**
6 **Eisold legally opposed.**

7 31. Around 2016, Runnels left WWE and spent a few years on the
8 independent wrestling circuit. In 2019, he co-founded, served as an executive vice-
9 president of, and wrestled with All Elite Wrestling (AEW), another “professional
10 wrestling promotion.”

11 32. On March 10, 2019, Runnels filed application serial no. 88/333,305
12 with the USPTO, seeking to register the trademark consisting of the word “The
13 American Nightmare” (“Runnels Mark”) in class 41. Runnels’ application and a
14 picture of the Runnels Mark are attached as Exhibit 3.

15 33. Eisold scrupulously enforced and protected the Eisold Mark against
16 Runnels’ infringement. Eisold objected to and timely filed his opposition to
17 Runnels’ application in the Trademark Trial and Appeal Board (“TTAB”) of the
18 USPTO on August 21, 2019.

19 34. Eisold’s opposition was assigned to TTAB proceeding no. 91250336.
20 In that proceeding, Runnels counterclaimed, seeking to cancel the Eisold Mark.

21 **F. Eisold and Runnels settled, allowing the wrestler to use “The American**
22 **Nightmare” on clothes so long as they prominently feature Runnels’**
23 **name, his name and likeness, or substantial indicia associated with**
24 **wrestling.**

25 35. On March 14, 2021, Eisold and Runnels entered into a settlement
26 agreement. A copy of the settlement agreement is attached as Exhibit 4. Eisold
27 signed the agreement in California, and Runnels signed in Ohio.

28 36. In section 1(a) of the agreement, Eisold consented to Runnels’

1 registration of “The American Nightmare” in connection solely with class 41, i.e.,
2 entertainment services.

3 37. In section 1(b), Eisold allowed Runnels to use (but not register) the
4 Runnels Mark in connection with clothing and apparel in class 25 on the condition
5 that the clothes feature—75% bigger than the Runnels Mark—Runnels’ name,
6 Runnels’ name and likeness, or substantial indicia associated with wrestling.

7 38. In section 2, Runnels agreed to pay Eisold \$30,000.

8 39. In section 4(a), Eisold and Runnels agreed to withdraw their filings in
9 the TTAB proceedings.

10 40. Section 4(b) states that the parties will reasonably cooperate to prevent
11 reoccurrences of any confusion resulting from their concurrent use of the two marks.

12 41. Section 4(c) provides that “no Party shall assist any third party in
13 taking any action, or cause or request any third party to take any action, that the
14 Party is prohibited from taking under this Agreement.”

15 42. Section 7(c) bound to the agreement the parties’ principals, owners,
16 successors, assigns, licensees, affiliates, and others acting by or through them, under
17 their direction, or in privity with them.

18 43. Eisold has fully performed his obligations under the settlement
19 agreement and all conditions precedent that the agreement requires him to perform.
20 Eisold has allowed Runnels to register the Runnels Mark in class 41 and to use the
21 Runnels Mark in class 25, he has withdrawn his filings in the TTAB proceeding,
22 and, as laid out below, he has attempted to reasonably cooperate with Runnels to
23 prevent confusion over their concurrent use of the two marks.

24 44. Discovery will likely show that Runnels did not breach the settlement
25 agreement when he was with AEW. Runnels, as discovery will likely show, was
26 uncomfortable with violating the settlement agreement; as an executive of AEW, he
27 did not want to draw negative attention or liability to the fledging company, and he
28 did not want to foot the bill if Eisold were to sue.

G. Runnels re-joined WWE in 2022, and Defendant Fanatics, LLC, WWE, and Runnels began selling clothes that violate the settlement agreement and infringe Eisold's trademark.

45. Before or around January 2022, Runnels re-signed with WWE. WWE and its merchandising partner and sublicensee Fanatics, LLC immediately sought to make a mint by promoting Runnels' "American Nightmare" image, including by licensing and selling apparel featuring Runnels' name, image, and fame.

46. Fanatics, LLC ("Fanatics") promotes itself as "global digital sports platform" and has several loosely organized subsidiaries, sibling businesses, and parent companies. Fanatics runs and is the proprietor of the e-commerce site, Fanatics.com. Fanatics.com targets California residents by selling clothes featuring the names and logos of California sports teams. Fanatics and its subsidiaries (including Lids) have retail locations throughout California. WWE Shop is WWE's official e-commerce site; the site labels itself as a "Fanatics Experience." The WWE Shop is co-run by or licensed to Fanatics. Both e-commerce sites sell WWE merchandise, including apparel.

47. Runnels' reunion with WWE was publicly confirmed when he participated in the first night of "WrestleMania 38" on April 2, 2022. Runnels' fame has exploded since returning to WWE; he is now by far the most prominent of the two hundred and fifty WWE "Superstars." He reigns as the "Undisputed WWE Champion"—WWE's most competitive and infamous championship. Runnels is the top-listed Superstar on the "Champions" page on the WWE website.

48. Capitalizing on Runnels' return to WWE, Defendants manufacture, produce, market, distribute, and sell clothes that nakedly violate sections 1, 4, 7, and other provisions of the settlement agreement and the Eisold Mark. The infringing clothes ("Runnels Apparel") brandish the text "American Nightmare" without featuring Runnels' name, his name and likeness, or substantial indicia associated with wrestling, or they do so in a de minimis manner. The Runnels Apparel are

1 counterculture or punk styled and often feature a winged skull embossed with the
2 stars and stripes (“Runnels Logo”), a black-and-white winged skull, or various
3 representations of the American flag. Pictures of the Runnels Apparel are attached
4 as Exhibit 6.

5 49. Runnels entered into a licensing agreement or has otherwise allowed
6 WWE and Fanatics to manufacture, produce, market, distribute, and sell the Runnels
7 Apparel. WWE has sublicensed or has otherwise allowed Fanatics to manufacture,
8 produce, market, distribute, and sell the Runnels Apparel. Defendants sell the
9 clothes nationwide on Runnels’ Instagram page, the WWE Shop, Fanatics.com and
10 at third-party stores, subsidiary retailers, and e-commerce sites, including Hot Topic,
11 The Wrestling Guy Store, Chalk Line, Wal-Mart, Amazon, Target, and Tik Tok
12 Shop.

13 50. Under the licensing and sublicensing agreements, Runnels specifically
14 approves each item of Runnels Apparel before sale. He has approved all apparel
15 designed by WWE, Fanatics, and others that fail to comply with the settlement
16 agreement and infringe on Eisold’s trademark.

17 51. WWE and Fanatics knew about the Eisold Mark and the settlement
18 agreement before they began to make and sell the Runnels Apparel. Although the
19 relevant facts concerning WWE’s and Fanatics’ knowledge are within only their
20 possession and control, discovery will likely reveal that WWE and Fanatics ran due
21 diligence before entering into any licensing agreement with Runnels. Bare
22 minimum, representatives of WWE and Fanatics would have checked whether
23 Runnels or someone else owned the trademark for “The American Nightmare” and
24 other symbols and monikers employed by Runnels. Representatives of WWE and
25 Fanatics would have searched for “American Nightmare” in the USPTO trademark
26 database and found the registrations of the Eisold Mark and the Runnels Mark. The
27 USPTO records accompanying the registrations included extensive records and
28 filings about Eisold’s opposition to Runnels’ registration and the TTAB

1 proceedings. WWE and Fanatics representatives would have read that Eisold and
2 Runnels suspended the TTAB proceedings to negotiate a settlement and that the
3 parties jointly stipulated to dismiss the case. Based on those findings, WWE and
4 Fanatics would have reached out to Runnels and his representatives to obtain a copy
5 of the settlement agreement. Representatives of WWE and Fanatics would have
6 researched Eisold and American Nightmare and discovered that they sold the Eisold
7 Apparel. WWE and Fanatics would have become familiar with the Eisold Apparel
8 and the goodwill they represent.

9 52. WWE and Fanatics intentionally caused Runnels to breach the
10 settlement agreement, which would have been performed but for the inducement.
11 WWE and Fanatics designed clothes that violated the settlement agreement and
12 intentionally sent those clothes to Runnels for approval. Although further relevant
13 facts concerning causation are within the possession and control of Defendants,
14 discovery will likely reveal evidence that WWE and Fanatics provided assurances to
15 Runnels that they would financially protect him if Eisold were to sue over the
16 Runnels apparel. Representatives of WWE and Fanatics knew that Eisold had
17 accepted just \$30,000 under the settlement agreement, and discovery will likely
18 show that they believed that Eisold did not care to enforce his trademark and, even if
19 he did, that he did not have the funds to defend the Eisold Mark against the
20 combined resources of the two companies. Discovery will likely show that WWE
21 and Fanatics determined that any cost of litigation would be miniscule compared to
22 the money Defendants would collectively make by selling the Runnels Apparel.
23 Discovery will likely show that WWE and Fanatics decided that Runnels was an
24 asset worth protecting at all costs, given his Superstar status. Discovery will likely
25 show that Runnels felt pressured to appease the two companies when he first re-
26 joined WWE. Thus, as discovery will likely show, WWE and Fanatics impressed on
27 Runnels that they would protect him if litigation were to erupt over the Runnels
28 Apparel, which emboldened and pressured Runnels to approve apparel designed by

1 WWE and Fanatics that violate the Eisold Mark.

2 **H. Defendants’ infringing apparel directly compete with Eisold’s apparel,**
3 **eating into Eisold’s profits.**

4 53. Eisold received an email from a fan in early 2022—within one year of
5 the execution of the settlement agreement and around the time that Runnels re-
6 signed with WWE. The fan inquired about one of the Runnels Apparel—a t-shirt—
7 that Defendants were selling online. The shirt prominently features the Eisold Mark
8 and a stars-and-stripes winged skull sporting a crown; a tiny WWE logo is featured
9 on the left sleeve (“Runnels Crown T-shirt”). A picture of the Runnels Crown T-
10 shirt is attached as Exhibit 5. At this point, Eisold discovered that Defendants were
11 selling the Runnels Apparel.

12 54. The similarity between the Eisold Apparel and Runnels Apparel has
13 caused widespread consumer confusion. Fans of WWE and wrestling frequently tag
14 American Nightmare in Facebook and social media posts. Fans who have emailed
15 Eisold and those who have tagged both Runnels and the band in posts have asked if
16 Eisold endorses or approves of Runnels or the Runnels Apparel. Fans of both
17 Runnels and American Nightmare purchase the Runnels Apparel. Fans attending
18 American Nightmare concerts and other events—including in California and
19 specifically this judicial district—wear both the Runnels Apparel and the Eisold
20 Apparel. Fans of Runnels and Eisold commonly make, buy, and wear clothes that
21 mix Eisold Mark, the Runnels Mark, the Eisold Angel Logo, the Eisold Shield
22 Logo, the Runnels Logo, and references to both parties. For example, one fan posted
23 on Instagram a picture of him wearing a muscle shirt brandishing the Eisold Angel
24 Logo and the text “American Dream”—a reference to Runnels and his father. A
25 picture of the Instagram post and another post depicting a confused Runnels fan are
26 attached as Exhibit 7.

27 55. Because the parties use the same marketing channels and target
28 consumers of counterculture and punk rock, the Runnels Apparel cannibalizes the

1 Eisold Apparel in their shared market. Searching “American Nightmare
2 merchandise,” “American Nightmare clothing,” or “American Nightmare shirts” on
3 search engines yields links to both the Eisold Apparel and the Runnels Apparel.
4 Moreover, the popular retailer, Hot Topic, is an official distributor of both the Eisold
5 Apparel and the Runnels Apparel. Hot Topic runs an e-commerce site and stores
6 (including in Los Angeles); the company is widely associated with selling
7 counterculture clothes and merchandise.

8 56. By any measure, Eisold has suffered significant economic and
9 reputational damages and the Eisold Mark has lost goodwill because of Defendants’
10 sale of the Runnels Apparel, although the extent of damages cannot be ascertained
11 before discovery. Sales of the Runnels Apparel have negatively affected Eisold’s
12 profits from the Eisold Apparel. Although Defendants’ earnings from the Runnels
13 Apparel is known only to Defendants, it is clear that Defendants have reaped
14 extraordinary profits from infringing the Eisold Mark. In 2022, WWE netted close
15 to \$1.3 million from selling commercial products, including clothes. WWE
16 “primarily” credits its success to “the continuing popularity of our Superstars”—
17 Superstars like Runnels.¹

18 **I. Runnels, WWE, and Fanatics have ignored Eisold’s repeated notices of**
19 **their unlawful conduct.**

20 57. On April 15, 2022 (i.e., 13 days after Runnels’ reunion with WWE was
21 publicly confirmed at WrestleMania 38), Eisold’s prior counsel emailed Runnels’
22 counsel that Defendants were selling the Runnels Crown T-shirt and that the shirt
23 violated the settlement agreement. Discovery will likely show that Runnels or his
24

25 ¹ *Licensing*, W, [https://corporate.wwe.com/what-we-do/consumer-](https://corporate.wwe.com/what-we-do/consumer-products/licensing)
26 [products/licensing](https://corporate.wwe.com/what-we-do/consumer-products/licensing) (last visited Aug. 19, 2024) [[https://perma.cc/HNL2-](https://perma.cc/HNL2-SH8U)
27 [SH8U](https://perma.cc/HNL2-SH8U)]; *WWE® Reports Record Full Year 2022 Results*, W (Feb. 2, 2023),
28 [https://corporate.wwe.com/investors/news/press-releases/2023/02-02-2023-](https://corporate.wwe.com/investors/news/press-releases/2023/02-02-2023-210607072)
[210607072](https://perma.cc/H59T-2YBK) [<https://perma.cc/H59T-2YBK>].

1 representatives shared the email—including details about how the shirt violated the
2 settlement agreement—with representatives of WWE and Fanatics.

3 58. Defendants never responded to the April 15, 2022 email. Instead,
4 Defendants ignored Eisold and continued to sell the Runnels Apparel.

5 59. In 2024, Eisold sent three cease and desist letters to Defendants. On
6 April 18, 2024, Eisold's counsel sent a cease and desist letter to Michael Rubin, the
7 Chief Executive Officer of Fanatics. The letter notified Fanatics of its unlawful
8 conduct. Fanatics shared this letter with WWE and, as discovery will likely show,
9 with Runnels. On May 21, 2024, Eisold's counsel sent a cease and desist letter to
10 Runnels. The letter advised Runnels that he unlawfully uses the Runnels Mark. As
11 discovery will likely show, Runnels or his representatives shared this letter with
12 WWE and Fanatics. On May 31, 2024, counsel for WWE sent a letter to Eisold's
13 counsel, stating that Fanatics had referred the dispute to WWE.

14 60. Defendants have ignored these three cease and desist letters and
15 continue to sell the Runnels Apparel. To date, Eisold has received no other
16 correspondence from Defendants.

17 61. To protect himself and his trademark, Eisold has no choice but to sue.

18 **CLAIMS**

19 **FIRST CAUSE OF ACTION**

20 **BREACH OF CONTRACT**

21 *By Eisold against Runnels*

22 62. Eisold realleges and incorporates paragraphs 1 through 70.

23 63. The settlement agreement between Eisold and Runnels is a valid,
24 enforceable, and binding written contract.

25 64. Eisold has performed all obligations and conditions precedent required
26 by the settlement agreement.

27 65. Runnels has not performed all obligations and conditions precedent
28 required by the settlement agreement.

1 66. Runnels has materially and substantially breached the contract.

2 67. Eisold was harmed.

3 68. As a result of Runnels' breach, Eisold has suffered damages.

4 69. The general damages flow directly from and are the natural and
5 probable consequences of Runnels' breach.

6 70. Eisold is entitled to collect attorney fees under section 7(h) of the
7 settlement agreement and because Runnels has acted in bad faith, vexatiously,
8 wantonly, or for oppressive reasons.

9 **SECOND CAUSE OF ACTION**

10 **INDUCING BREACH OF CONTRACT**

11 *By Eisold against WWE and Fanatics*

12 71. Eisold realleges and incorporates paragraphs 1 through 69.

13 72. The settlement agreement is a valid and enforceable written contract
14 between Eisold and Runnels.

15 73. WWE and Fanatics knew of the settlement agreement.

16 74. WWE and Fanatics intentionally caused Runnels to breach his contract
17 with Eisold.

18 75. The settlement agreement was breached, resulting in injury to Eisold.

19 76. WWE's and Fanatics' unjustified and wrongful conduct caused the
20 breach of the settlement agreement and Eisold's injury.

21 77. As a result of WWE's and Fanatics' inducement, Eisold has suffered
22 damages.

23 78. Eisold has no adequate remedy at law.

24 79. Eisold is entitled to collect attorney fees under section 7(h) of the
25 settlement agreement and because WWE and Fanatics have acted in bad faith,
26 vexatiously, wantonly, and for oppressive reasons.

27

28

THIRD CAUSE OF ACTION

INTENTIONAL INTERFERENCE WITH CONTRACTUAL RELATIONS

By Eisold against WWE and Fanatics

80. Eisold realleges and incorporates paragraphs 1 through 79.

81. The settlement agreement between Eisold and Runnels is a valid and enforceable written contract.

82. WWE and Fanatics knew about the settlement agreement.

83. WWE's and Fanatics' intentional acts were designed to induce a breach or disruption of the settlement agreement. WWE and Fanatics acted maliciously and intentionally to prevent, hinder, render more expensive, and make more difficult the performance of the settlement agreement, and they were certain or substantially certain that this would occur.

84. There was both actual breach of the settlement agreement and actual disruption of the contractual relationship between Eisold and Runnels.

85. As a result of WWE's and Fanatics' interference, Eisold has suffered damages.

86. Eisold has no adequate remedy at law.

87. Eisold is entitled to collect attorney fees under section 7(h) of the settlement agreement and because WWE and Fanatics have acted in bad faith, vexatiously, wantonly, and for oppressive reasons

FOURTH CAUSE OF ACTION

FEDERAL TRADEMARK INFRINGEMENT

By Eisold against All Defendants

88. Eisold realleges and incorporates paragraphs 1 through 87.

89. Eisold owns the federally registered Eisold Mark in connection with clothes and apparel (class 25).

90. Defendants' unauthorized use in commerce of the infringing mark is likely to deceive consumers as to the origin, source, sponsorship, or affiliation of the

1 Runnels Apparel.

2 91. Defendants' conduct is likely to cause consumers to believe, contrary to
3 reality, that the Runnels Apparel are sold, authorized, endorsed, or sponsored by
4 Eisold or that Defendants are in some way affiliated with or sponsored by Eisold.

5 92. Defendant's conduct therefore constitutes trademark infringement in
6 violation of Section 32(1) of the Lanham Act, 15 U.S.C. § 1114(1).

7 93. On information and belief, Defendants have, with full knowledge of
8 Runnels' prior rights in the Eisold Mark and have willfully intended to cause
9 confusion and trade on Eisold's goodwill.

10 94. Defendants' conduct causes immediate and irreparable harm and injury
11 to Eisold and to his goodwill and reputation, and their actions will continue to
12 damage Eisold and confuse the public unless enjoined by this court.

13 95. Eisold has no adequate remedy at law.

14 96. As a result of Defendants' trademark infringement, Eisold has suffered
15 damages.

16 97. Eisold is entitled to, among other relief, injunctive relief; an award of
17 actual damages, Defendants' profits, enhanced damages and profits; reasonable
18 attorney fees; and costs of this action under Sections 34 and 35 of the Lanham Act,
19 15 U.S.C. §§ 1116 and 1117, together with prejudgment and post-judgment interest.
20 Eisold is further entitled to collect attorney fees because Defendants have acted in
21 bad faith, vexatiously, wantonly, and for oppressive reasons.

22 **FIFTH CAUSE OF ACTION**

23 **UNFAIR COMPETITION**

24 **CALIFORNIA BUSINESS & PROFESSIONAL CODE**

25 **SECTION 17200 ET SEQ.**

26 *By Eisold against All Defendants*

27 98. Eisold realleges and incorporates paragraphs 1 through 97.

28 99. Runnels has engaged in unlawful, unfair, and fraudulent business acts

1 or practices by breaching the settlement agreement and infringing Eisold's
2 trademark.

3 100. WWE and Fanatics have engaged in unlawful, unfair, and fraudulent
4 business acts or practices by inducing Runnels' breach of the settlement agreement
5 and by intentionally interfering with contractual relations between Eisold and
6 Runnels.

7 101. Eisold has suffered an injury in fact and has lost money or property as a
8 result of such unfair competition.

9 102. Eisold is entitled to an amount of restitution to be proven at trial and
10 injunctive relief to permanently enjoin Defendants from engaging in the unlawful,
11 unfair, and fraudulent business acts and practices described in this Complaint.

12 103. Eisold is further entitled to collect attorney fees because Defendants
13 have acted in bad faith, vexatiously, wantonly, and for oppressive reasons.

14 **PRAYER FOR RELIEF**

15 Eisold requests that this Court:

16 1. Conduct a jury trial on all issues triable by a jury.

17 2. Enter judgment against Runnels that he has committed breach of
18 contract, federal trademark infringement under 15 U.S.C. § 1114, and unfair
19 competition under California Business & Professional Code section 17200 et seq.

20 3. Enter judgment against WWE and Fanatics that they have committed
21 inducement of breach of contract, intentional interference with contractual relations,
22 federal trademark infringement under 15 U.S.C. § 1114, and unfair competition
23 under California Business & Professional Code section 17200 et seq.

24 4. On Count One, award damages in favor of Eisold of an amount to be
25 determined at trial but no less than \$250,000.

26 5. On Count Two, award damages in favor of Eisold of an amount to be
27 determined at trial but no less than \$250,000.

28 6. On Count Three, award damages in favor of Eisold of an amount to be

determined at trial but no less than \$250,000.

7. On Count Four, award damages in favor of Eisold of an amount to be determined at trial but no less than \$300,000, i.e., treble damages of \$100,000 in accordance with Section 35(a) of the Lanham Act. 15 U.S.C. § 1117(a).

8. On Count Five, award restitution to Eisold of an amount to be determined at trial.

9. Determine that Defendants willfully committed each alleged act.

10. Grant an injunction temporarily, preliminarily, and permanently enjoin the sale of the Runnels Apparel by Defendants; their employees, agents, officers, directors, attorneys, successors, affiliates, subsidiaries, and assigns; and those in active concert with Defendants.

11. Award Eisold punitive and exemplary damages as the Court finds appropriate to deter future willful infringement.

12. Award Eisold the maximum prejudgment interest allowed by law. Cal. Civ. Code § 3289(b).

13. Award Eisold the maximum post-judgment interest allowed by law. 28 U.S.C. § 1961.

14. Award Eisold costs.

15. Award Eisold reasonable attorney fees.

16. Award any other just and proper relief.

DATED: December 13, 2024 KING, HOLMES, PATERNO &
SORIANO, LLP

By: /s/ Howard E. King
HOWARD E. KING
HEATHER L. PICKERELL
Attorneys for Plaintiff WESLEY EISOLD

EXHIBIT 1

United States of America

United States Patent and Trademark Office

American Nightmare

Reg. No. 5,089,055

Registered Nov. 29, 2016

Int. Cl.: 9, 25, 41

Service Mark

Trademark

Principal Register

Eisold, Wesley (UNITED STATES INDIVIDUAL)
5931 1/2 Franklin Ave.
Los Angeles, CA 90028

CLASS 9: Pre-Recorded digital, downloadable, and physical media, namely, audio files, cassettes, CDs, discs, DVDs, hard drives, MP3s, phonograph records, records, tapes, vinyl, and WAV files, featuring music, images, videos, and performances by musicians and entertainers

FIRST USE 12-31-1999; IN COMMERCE 12-31-1999

CLASS 25: Clothing and apparel, namely, shirts, sweatshirts, jackets; Headwear

FIRST USE 2-28-2000; IN COMMERCE 2-28-2000

CLASS 41: Entertainment services, namely, live performances by a musical group; arranging and organizing live musical performances; music publishing services; providing a website featuring information, commentary, and news about arts, musical events, and music accessible over the Internet, mobile apps, and computer/digital networks

FIRST USE 2-28-2000; IN COMMERCE 2-28-2000

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT STYLE, SIZE OR COLOR

SER. NO. 86-430,356, FILED 10-21-2014
DOUGLAS M LEE, EXAMINING ATTORNEY



Michelle K. Lee

Director of the United States
Patent and Trademark Office

REQUIREMENTS TO MAINTAIN YOUR FEDERAL TRADEMARK REGISTRATION

WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.

Requirements in the First Ten Years*

What and When to File:

- **First Filing Deadline:** You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. See 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.
- **Second Filing Deadline:** You must file a Declaration of Use (or Excusable Nonuse) and an Application for Renewal between the 9th and 10th years after the registration date.* See 15 U.S.C. §1059.

Requirements in Successive Ten-Year Periods*

What and When to File:

- You must file a Declaration of Use (or Excusable Nonuse) and an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.*

Grace Period Filings*

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

***ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the United States Patent and Trademark Office (USPTO). The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. See 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. See 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.

NOTE: A courtesy e-mail reminder of USPTO maintenance filing deadlines will be sent to trademark owners/holders who authorize e-mail communication and maintain a current e-mail address with the USPTO. To ensure that e-mail is authorized and your address is current, please use the Trademark Electronic Application System (TEAS) Correspondence Address and Change of Owner Address Forms available at <http://www.uspto.gov>.

EXHIBIT 2

SAT JUNE 3, 2000
FOUR WALLS
FALLING

the goodbye they never got

RAIN ON THE PARADE

from philly on 3 chord records

STRIKE ANYWHERE

from richmond, ex inquisition

NO JUSTICE

ex bladecrasher

AMERICAN NIGHTMARE

ex ten yard fight

\$6 ST. ANDREWS CHURCH, COLLEGE PARK MD.
4512 COLLEGE AVENUE



LINE UP SUBJECT TO CHANGE • MORE INFO EMAIL APOCALYPSEODIDES@HOTMAIL.COM OR CALL TRU 703.515.0483 OR ERIC 703.457.2830





American Nightmare

WINTER TOUR 2000



American Nightmare





#1021



American Nightmare



Summer Tour 2001

#:1023







Enjoy free US shipping on orders over \$250. Enter VIVA at checkout.

Heartworm PressThe Daily PlanetNew Arrivals



Angel Champion Hoodie

- Small
- Medium
- Large
- X-Large
- XXL

Sold out

Enjoy free US shipping on orders over \$250. Enter VIVA at checkout.

Product description The Valley of the New Arrivals



American Nightmare

Angel Long Sleeve

- Small
- Medium
- Large
- X-Large

Sold out

EXHIBIT 3

Under the Paperwork Reduction Act of 1995 no persons are required to respond to a collection of information unless it displays a valid OMB control number.
PTO Form 1478 (Rev 09/2006)
OMB No. 0651-0009 (Exp 02/28/2021)

Trademark/Service Mark Application, Principal Register

TEAS Plus Application

Serial Number: 88333305

Filing Date: 03/10/2019

*NOTE: Data fields with the * are mandatory under TEAS Plus. The wording "(if applicable)" appears where the field is only mandatory under the facts of the particular application.*

The table below presents the data as entered.

Input Field	Entered
TEAS Plus	YES
MARK INFORMATION	
*MARK	THE AMERICAN NIGHTMARE
*STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	THE AMERICAN NIGHTMARE
*MARK STATEMENT	The mark consists of standard characters, without claim to any particular font style, size, or color.
REGISTER	Principal
APPLICANT INFORMATION	
*OWNER OF MARK	Cody Runnels
*STREET	c/o Shumaker Loop,1000 Jackson St.
*CITY	Toledo
*STATE (Required for U.S. applicants)	Ohio
*COUNTRY	United States
*ZIP/POSTAL CODE (Required for U.S. and certain international addresses)	43604
LEGAL ENTITY INFORMATION	
*TYPE	INDIVIDUAL
* COUNTRY OF CITIZENSHIP	United States
GOODS AND/OR SERVICES AND BASIS INFORMATION	
* INTERNATIONAL CLASS	041
*IDENTIFICATION	Entertainment services, namely, live appearances by a professional wrestler and sports entertainment personality ; Entertainment services, namely, personal appearances by a professional wrestler and sports entertainment personality ; Entertainment services, namely, wrestling exhibits and performances by a professional wrestler and entertainer;

	Entertainment services, namely, providing podcasts in the field of professional wrestling and sports entertainment ; Entertainment services, namely, providing video podcasts in the field of professional wrestling and sports entertainment
*FILING BASIS	SECTION 1(b)
ADDITIONAL STATEMENTS INFORMATION	
*TRANSLATION (if applicable)	
*TRANSLITERATION (if applicable)	
*CLAIMED PRIOR REGISTRATION (if applicable)	
*CONSENT (NAME/LIKENESS) (if applicable)	
*CONCURRENT USE CLAIM (if applicable)	
ATTORNEY INFORMATION	
NAME	MICHAEL E. DOCKINS
FIRM NAME	Shumaker Loop & Kendrick
STREET	1000 JACKSON ST.
CITY	TOLEDO
STATE	Ohio
COUNTRY	United States
ZIP/POSTAL CODE	43604
PHONE	419-321-1473
FAX	419-241-6894
EMAIL ADDRESS	mdockins@shumaker.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
OTHER APPOINTED ATTORNEY	Doug Miller, Bill Clemens, Bill Ziehler, Scott Seaman, Kristen Fries
CORRESPONDENCE INFORMATION	
*NAME	MICHAEL E. DOCKINS
FIRM NAME	Shumaker Loop & Kendrick
*STREET	1000 JACKSON ST.
*CITY	TOLEDO
*STATE (Required for U.S. addresses)	Ohio
*COUNTRY	United States
*ZIP/POSTAL CODE	43604
PHONE	419-321-1473
FAX	419-241-6894
*EMAIL ADDRESS	mdockins@shumaker.com; hpeppard@shumaker.com; tlopez@shumaker.com

* AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
FEE INFORMATION	
APPLICATION FILING OPTION	TEAS Plus
NUMBER OF CLASSES	1
FEE PER CLASS	225
* TOTAL FEE PAID	225
SIGNATURE INFORMATION	
* SIGNATURE	/Michael E. Dockins/
* SIGNATORY'S NAME	MICHAEL E. DOCKINS
* SIGNATORY'S POSITION	Attorney for applicant
SIGNATORY'S PHONE NUMBER	419-321-1473
* DATE SIGNED	03/10/2019

Under the Paperwork Reduction Act of 1995 no persons are required to respond to a collection of information unless it displays a valid OMB control number.
PTO Form 1478 (Rev 09/2006)
OMB No. 0651-0009 (Exp 02/28/2021)

Trademark/Service Mark Application, Principal Register

TEAS Plus Application

Serial Number: 88333305

Filing Date: 03/10/2019

To the Commissioner for Trademarks:

MARK: THE AMERICAN NIGHTMARE (Standard Characters, see [mark](#))

The mark in your application is THE AMERICAN NIGHTMARE.

The applicant, Cody Runnels, a citizen of United States, having an address of
c/o Shumaker Loop, 1000 Jackson St.
Toledo, Ohio 43604
United States

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

For specific filing basis information for each item, you must view the display within the Input Table.

International Class 041: Entertainment services, namely, live appearances by a professional wrestler and sports entertainment personality; Entertainment services, namely, personal appearances by a professional wrestler and sports entertainment personality; Entertainment services, namely, wrestling exhibits and performances by a professional wrestler and entertainer; Entertainment services, namely, providing podcasts in the field of professional wrestling and sports entertainment; Entertainment services, namely, providing video podcasts in the field of professional wrestling and sports entertainment

Intent to Use: The applicant has a bona fide intention, and is entitled, to use the mark in commerce on or in connection with the identified goods/services. (15 U.S.C. Section 1051(b)).

The applicant's current Attorney Information:

MICHAEL E. DOCKINS and Doug Miller, Bill Clemens, Bill Ziehler, Scott Seaman, Kristen Fries of Shumaker Loop & Kendrick 1000 JACKSON ST.
TOLEDO, Ohio 43604
United States
419-321-1473(phone)
419-241-6894(fax)
mdockins@shumaker.com (authorized)

The applicant's current Correspondence Information:

MICHAEL E. DOCKINS
Shumaker Loop & Kendrick
1000 JACKSON ST.
TOLEDO, Ohio 43604
419-321-1473(phone)
419-241-6894(fax)
mdockins@shumaker.com; hpeppard@shumaker.com; tlopez@shumaker.com (authorized)

E-mail Authorization: I authorize the USPTO to send e-mail correspondence concerning the application to the applicant or the applicant's attorney, or the applicant's domestic representative at the e-mail address provided in this application. I understand that a valid e-mail address must be maintained and that the applicant or the applicant's attorney must file the relevant subsequent application-related submissions via the Trademark Electronic Application System (TEAS). Failure to do so will result in the loss of TEAS Plus status and a requirement to submit an additional processing fee of \$125 per international class of goods/services.

A fee payment in the amount of \$225 has been submitted with the application, representing payment for 1 class(es).

Declaration

☒ **Basis:**

If the applicant is filing the application based on use in commerce under 15 U.S.C. § 1051(a):

- The signatory believes that the applicant is the owner of the trademark/service mark sought to be registered;
- The mark is in use in commerce on or in connection with the goods/services in the application;
- The specimen(s) shows the mark as used on or in connection with the goods/services in the application; and
- To the best of the signatory's knowledge and belief, the facts recited in the application are accurate.

AND/OR

If the applicant is filing the application based on an intent to use the mark in commerce under 15 U.S.C. § 1051(b), § 1126(d), and/or § 1126(e):

- The signatory believes that the applicant is entitled to use the mark in commerce;
 - The applicant has a bona fide intention to use the mark in commerce on or in connection with the goods/services in the application; and
 - To the best of the signatory's knowledge and belief, the facts recited in the application are accurate.
- ☒ To the best of the signatory's knowledge and belief, no other persons, except, if applicable, concurrent users, have the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services of such other persons, to cause confusion or mistake, or to deceive.
- ☒ To the best of the signatory's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, the allegations and other factual contentions made above have evidentiary support.
- ☒ The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of the application or submission or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

Declaration Signature

Signature: /Michael E. Dockins/ Date: 03/10/2019

Signatory's Name: MICHAEL E. DOCKINS

Signatory's Position: Attorney for applicant

Signatory's Phone Number: 419-321-1473

Payment Sale Number: 88333305

Payment Accounting Date: 03/11/2019

Serial Number: 88333305

Internet Transmission Date: Sun Mar 10 23:47:24 EDT 2019

TEAS Stamp: USPTO/FTK-XX.XXX.XXX.XXX-201903102347241

51144-88333305-620178861c9db2947c328cd2c

b6f1f2bb8f26e5b4bf1d14856844dfc4af0d798-

DA-7954-20190310234200794365

THE AMERICAN NIGHTMARE

EXHIBIT 4

SETTLEMENT AND COEXISTENCE AGREEMENT

THIS SETTLEMENT AND COEXISTENCE AGREEMENT (the “**Agreement**”), effective as of the date of full execution (the “**Effective Date**”), is by and between, Wesley Eisold (“**Eisold**”), a California individual with an address of c/o Kia Kamran P.C., 1900 Avenue of the Stars, 25th Floor, Los Angeles, California 90067 and Cody Runnels aka Cody Rhodes (“**Runnels**”), an Ohio individual with an address of c/o Michael E. Dockins, Esq., Shumaker, Loop & Kendrick, LLP, 1000 Jackson Street Toledo, Ohio 43604-5573 (each a “**Party**” and together the “**Parties**”).

WHEREAS Eisold performs, records, and distributes music, clothing and apparel, and related goods and services under the mark AMERICAN NIGHTMARE, and owns U.S. Registration No. 5,089,055 for the mark AMERICAN NIGHTMARE (the “**Eisold Mark**”) in International Classes 009, 025, and 041 at the United States Patent and Trademark Office (“**USPTO**”);

WHEREAS, on March 10, 2019, Runnels filed Application Serial No. 88/333,305 (the “**Application**”) with the USPTO seeking to register the mark THE AMERICAN NIGHTMARE (the “**Runnels Mark**”) for use in connection with the following services in International Class 041: *“Entertainment services, namely, live appearances by a professional wrestler and sports entertainment personality; Entertainment services, namely, personal appearances by a professional wrestler and sports entertainment personality; Entertainment services, namely, wrestling exhibits and performances by a professional wrestler and entertainer; Entertainment services, namely, providing podcasts in the field of professional wrestling and sports entertainment; Entertainment services, namely, providing video podcasts in the field of professional wrestling and sports entertainment”* (the “**Runnels Services**”);

WHEREAS, Eisold objected to Runnels’ use and registration of the Runnels Mark, including by timely filing a Notice of Opposition against the Application in the Trademark Trial and Appeal Board (“**TTAB**”) of the USPTO on August 21, 2019, which opposition has been assigned Proceeding No. 91250336 (the “**Opposition**”);

WHEREAS, on September 30, 2019, Runnels filed an answer to Eisold’s Opposition, and counterclaimed to cancel the Eisold Mark with the TTAB in Proceeding No. 91250336 (the “**Counterclaim**”);

WHEREAS, the Parties desire to resolve amicably the dispute between them concerning the Eisold Mark, the Runnels Mark, the Application, Opposition, and Counterclaim.

NOW, THEREFORE, in consideration of the promises and undertakings contained herein and for other good and valuable consideration, the receipt and sufficiency of which the Parties hereby acknowledge, the Parties, intending to be legally bound, agree as follows:

1. Eisold’s Conditional Consent to Registration and Use of the Runnels Mark.

Expressly contingent on Eisold’s receipt in full of the Settlement Payment and Runnels’ ongoing compliance with the terms hereof:

(a) Eisold consents to Runnels' registration of the Runnels Mark in connection solely with the Runnels Services and shall not oppose, seek to cancel, or otherwise interfere with Runnels' registration that issues therefrom.

(b) Eisold further consents to Runnels' use (but not registration) of the Runnels Mark in connection with clothing apparel in International Class 025 promoting the Runnels Goods and Services (collectively, the "**Runnels Apparel**") with the express condition that all uses of the Runnels Mark on or in connection with the Runnels Apparel (and on any Runnels-controlled websites, e-commerce pages, social media pages, advertisement, or other outlet used to sell or promote the Runnels Apparel) must contain, and be alongside the following, to appear in reasonably-placed and sized prominence as compared with the Runnels Mark (i.e. 75% or larger size as compared to the Runnels Mark):

- (i) Runnels' name (i.e. Cody Rhodes) or
- (ii) Runnels' name and likeness; or
- (iii) substantial indicia indicating association with wrestling (e.g., the AEW company logo).

(c) Except as expressly set forth herein, no further rights or permissions are being granted with respect to, or in connection with the Eisold Mark, all of which shall remain expressly reserved by Eisold.

2. Settlement Payment.

Upon execution hereof, Runnels shall pay Eisold the sum of Thirty Thousand U.S. Dollars (\$30,000 USD) (the "**Settlement Payment**") by wire to the following account:

Bank of America
Wesley Eisold
Acct: 000328523668
Routing: 121000358
Swift: BOFAUS3N

3. Default.

Should Runnels fail to abide by the foregoing expressed conditions in 1(b) above, and provided also that ten (10) business days have passed since Eisold's notice of such failure with Runnels' failure to cure such default, Eisold shall have the right to, without in any way prejudicing its other rights and remedies, take any and all corrective actions necessary to prevent such default including but not limited to providing notification to any website, e-commerce site, social media host, and other channel of trade of Runnels' default and demanding compliance with 1(b).

4. Joint Undertakings.

(a) Within three (3) business days of Eisold's receipt of the Settlement Payment and Runnels' execution date hereof, the Parties shall withdraw their respective Opposition and Counterclaim with prejudice, and shall thereafter take any reasonable further steps necessary to ensure the dismissal of the Opposition.

(b) In the event that, despite the Parties' expectations, a Party becomes aware of any instances of actual confusion resulting from the concurrent use of their respective marks in accordance with the terms of this Agreement, the Parties shall reasonably cooperate to seek to prevent a reoccurrence.

(c) No Party shall assist any third party in taking any action, or cause or request any third party to take any action, that the Party is prohibited from taking under this Agreement.

5. Mutual Releases.

(a) Expressly contingent on Eisold's receipt in full of the Settlement Payment and Runnels' ongoing compliance with the terms hereof, Eisold, for himself and on behalf of his past, present, and future principals, officers, directors, agents, legal representatives, affiliates, subsidiaries, parents, predecessors, successors, and assigns, forever releases and fully discharges Runnels, together with his principals, officers, members, managers, directors, agents, and legal representatives, as well as his and their affiliates, subsidiaries, parents, predecessors, successors, and assigns, from any and all claims, actions, causes of action, suits, claims, liabilities, losses, damages, costs, debts, fees, expenses, demands, and any other obligations, whether known or unknown, matured or unmatured, related to the Opposition and Counterclaim up to the Effective Date.

(b) Expressly contingent on Runnels' receipt of the signed copy hereof, Runnels, for himself and on behalf of his past, present, and future principals, officers, directors, agents, legal representatives, affiliates, subsidiaries, parents, predecessors, successors, and assigns, forever releases and fully discharges Eisold, his principals, officers, directors, agents, and legal representatives, as well as his and their affiliates, subsidiaries, parents, predecessors, successors, and assigns from any and all claims, actions, causes of action, suits, claims, liabilities, losses, damages, costs, debts, fees, expenses, demands, and any other obligations, whether known or unknown, matured or unmatured, related to the Opposition and Counterclaim up to the Effective Date.

6. Notice.

All notices, instructions, consents, and other communications pursuant to this Agreement shall be in writing and shall be given by overnight courier using the addresses set forth below, or such other address as a Party may direct. All notices shall be deemed effective one (1) business day

following deposit with any overnight courier service. Any change in the recipient of notices shall be provided pursuant to the requirements of this provision.

To: Runnels

Cody Runnels
1000 Jackson St.
Toledo, OH 43604 USA

With a courtesy copy by email to:

Michael Dockins, Esq.
SHUMAKER LOOP & KENDRICK
1000 JACKSON ST
Toledo, OH 43604
MDockins@shumaker.com

To: Eisold

Wesley Eisold
5931 1/2 Franklin Ave.
Los Angeles CA 90028 USA

With a courtesy copy by email to:

Kia Kamran, Esq.
Kia Kamran, P.C.
1900 Avenue of the Stars, 25th Floor
Los Angeles, California 90067
Kia@TuneLaw.com

7. General Provisions.

- (a) Territory. The geographic scope of this agreement shall be worldwide.
- (b) Reservation of Rights. The Parties reserve all rights not expressly addressed by this Agreement.
- (c) Binding Nature. This Agreement shall be binding on and inure to the benefit of the Parties and their principals, owners, successors, assigns, licensees, affiliates, and all others acting by or through them or with or under their direction or in privity with them.
- (d) Authority. Each Party represents and warrants that it has full authority to enter into this Agreement. Each Party knowingly enters into this Agreement, has the legal capacity to enter into this Agreement and to carry out all obligations and requirements herein, and consulted or had the opportunity to consult with counsel to approve the form and content of this Agreement.
- (e) Entire Agreement. This Agreement constitutes the entire understanding between the Parties with respect to the subject matter hereof and supersedes all other understandings and agreements between them, whether written or oral.
- (f) No Oral or Implied Modification or Waiver. This Agreement may not be changed, modified, extended, terminated, or discharged except in a writing signed by both Parties. No Party shall be deemed to have waived any of its rights hereunder except in a writing signed by both Parties and specifically referring to this Agreement and the right that is being waived.
- (g) Intentionally Deleted.

(h) Attorneys' Fees. In the event that any action, suit, or other proceeding is instituted concerning or arising out of this Agreement, the prevailing Party shall recover all of such Party's reasonable costs and reasonable attorneys' fees incurred in each and every such action, suit, or other proceeding, including any and all appeals or petitions therefrom, whether such costs and attorneys' fees incurred prior to or after judgment is entered

(i) Duration. This Agreement shall remain in force so long as both Parties continue to use their respective marks.

(j) Severability. If any provision or provisions of this Agreement are held to be invalid, illegal or unenforceable, in whole or in part, under any law or regulation, by a court of competent jurisdiction, then such provision or portion of such provision, as appropriate, shall remain in effect only to the extent that it is valid and the validity, legality and enforceability of the remaining provisions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

(k) Force and Effect. This document shall be of no force and effect unless and until duly executed by all Parties hereto.

(l) Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument. The Agreement may be executed by any party through the means of fax copy or by the exchange of signatures through email in unmodifiable digital file formats (e.g. PDF), or by DocuSign or similar digital signature technology, and such fax, PDF signature, or other digital signature technology means shall be effective, valid and enforceable as if it was an original signature for purposes of this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the dates indicated below:

Dated: 3/14/21

CODY RUNNELS



WESLEY EISOLD

Dated: 3/14/21



EXHIBIT 5



EXHIBIT 6

HURRY! ENDS IN:

06
HRS

04
MIN

45
SEC

25% OFF YOUR PURCHASE

USE CODE: SUPERSTAR

*Terms and Exclusions Apply.
Promotional Details
Offer expires 09/16/24
@ 11:59PM ET

CODY RHODES / CODY RHODES APPAREL / PRODUCT ID: 201625261



W Officially Licensed Gear

Men's ProSphere Black Cody Rhodes American Nightmare Flag T-Shirt

Select a size below in order to get shipping information or item stock status

Your Price: \$44⁹⁹

Most Popular

Last purchased 9 hours ago

Size

SIZE CHART

S

M

L

XL

2XL

3XL

4XL

Quantity

1

Add to Cart



World's Largest Collection of Officially Licensed
WWE Gear

You earn \$0.45 FanCash on this item

Shipping

- Select a size above in order to get shipping information or item stock status

Details

Description

Do more than just hoot and holler for Cody Rhodes. Proudly show your admiration with this ProSphere American Nightmare Flag T-Shirt. Claim your wardrobe kingdom in the name of Cody Rhodes and hear the echoes of "WOAH OH!" after making a great decision to pick up this Superstar apparel.

HURRY! ENDS IN:

06
HRS01
MIN24
SEC

25% OFF YOUR PURCHASE

USE CODE:

SUPERSTAR

*Terms and Exclusions Apply.
Promotional Details
Offer expires 08/16/24
@ 11:59PM ET

CODY RHODES / CODY RHODES APPAREL / PRODUCT ID: 201321971



Officially Licensed Gear

Men's Mad Engine Heather Charcoal Cody Rhodes American Nightmare T-Shirt

Ships Directly From a Trusted Partner

\$22⁴⁹ with code: Superstar
Offer ends in 6hrs 1min 24sec!
Regular: \$29⁰⁰

[Coupon](#) ☐ [Apply Code Here!](#)

Last purchased 6 hours ago

Color: Heather Charcoal



Size

[SIZE CHART](#)[XS](#) [S](#) [M](#) [L](#) [XL](#) [2XL](#) [3XL](#)

Quantity

1

[Add to Cart](#)

World's Largest Collection of Officially Licensed
WWE Gear

You earn \$0.30 FanCash on this item ⓘ

Shipping

- Ships directly from a trusted partner. This item ships on or before Thursday, August 22, 2024.

Details

Description

Channel your inner greatness with this Cody Rhodes T-Shirt from Mad Engine. Featuring Cody Rhodes American Nightmare graphics, this tee is exactly what you need to show respect for your favorite Superstar. Stand up and salute one of the best athletes on the planet with this awesome tee.

SUPERSTARS

TITLE BELTS

T-SHIRTS

APPAREL

HATS

ACCESSORIES

COLLECTIBLES

HOME & OFFICE

SALE

AUCTIONS

HURRY! ENDS IN:

05
HRS

47
MIN

34
SEC

25% OFF YOUR PURCHASE

USE CODE: **SUPERSTAR**

*Terms and Exclusions Apply.
Promotions/Details
Offer expires 08/16/24
@ 11:59PM ET

CODY RHODES / CODY RHODES APPAREL / PRODUCT ID: 201625260



WWE Officially Licensed Gear

Men's ProSphere Black Cody Rhodes American Nightmare Flag Basketball Fashion Jersey

Select a size below in order to get shipping information or item stock status

Your Price: \$69⁹⁹

or 4 payments of \$18.50 with **ZIP**

Last purchased more than a day ago

Size

SIZE CHART

XS

S

M

L

XL

2XL

3XL

Quantity

1

Add to Cart



World's Largest Collection of Officially Licensed
WWE Gear

You earn \$0.70 FanCash on this item ⓘ

Shipping

- Select a size above in order to get shipping information or item stock status

Details

Description

Do more than just hoot and holler for Cody Rhodes. Proudly show your admiration with this ProSphere American Nightmare Flag Basketball Fashion Jersey. Claim your wardrobe kingdom in the name of Cody Rhodes and hear the echoes of "WOAH OH!" after making a great decision to pick up this Superstar apparel.



HURRY! ENDS IN: 05 HRS 19 MIN 30 SEC

25% OFF YOUR PURCHASE

USE CODE: SUPERSTAR

*Terms and Exclusions Apply.
Promotional Details
Offer expires 09/16/24
@ 11:59PM ET

CODY RHODES / CODY RHODES APPAREL / PRODUCT ID: 201625259



WWE Officially Licensed Gear

Men's ProSphere Black Cody Rhodes American Nightmare Flag Football Fashion Jersey

Ships Directly From a Trusted Partner

Your Price: \$115⁹⁹

or 4 payments of \$30.25 with ZIP

Last purchased more than a day ago

Size

SIZE CHART

S M L XL 2XL 3XL 4XL

Quantity

1

Add to Cart



World's Largest Collection of Officially Licensed
WWE Gear

You earn \$1.16 FanCash on this item

Shipping

- Ships directly from a trusted partner. This item ships on or before Monday, August 26, 2024.

Details

Description

Do more than just hoot and holler for Cody Rhodes. Proudly show your admiration with this ProSphere American Nightmare Flag Football Fashion Jersey. Claim your wardrobe kingdom in the name of Cody Rhodes and hear the echoes of "WOAH OH!" after making a great decision to pick up this Superstar apparel.

HURRY! ENDS IN:

05 HRS 09 MIN 44 SEC

25% OFF YOUR PURCHASE

USE CODE: SUPERSTAR

*Terms and Exclusions Apply.
Promotional Details
Offer expires 08/16/24
@ 11:59PM ET

CODY RHODES / CODY RHODES APPAREL / PRODUCT ID: 5230217



Ready To Ship



W Officially Licensed Gear

Men's Chalk Line Black Cody Rhodes Big Logo Retro Shorts

In Stock - This item will ship within 1 business day.

\$41²⁴ with code: Superstar
Offer ends in 5hrs 9min 44sec
Regular: \$54⁰⁰

Coupon ☐ Apply Code Here!

🛒 Last purchased more than a day ago

Size

SIZE CHART

S

M

L

XL

2XL

3XL

4XL

Quantity

1

Add to Cart

🔄 90-DAY RETURNS



World's Largest Collection of Officially Licensed
WWE Gear

You earn \$2.75 FanCash on this item ⓘ

Shipping

- This item will ship within 1 business day.

Details

Description

Show that adrenaline always courses through your soul each time you sport these Cody Rhodes Big Logo Retro Shorts. They feature unmistakable graphics that let every WWE Universe member know that it's always an American Nightmare for anyone that steps through the ropes to face the second-generation Superstar. The elastic waistband and side pockets offer all the comfort and storage space you need to enjoy every Cody Rhodes match.

HURRY! ENDS IN: 05 HRS 02 MIN 22 SEC

25% OFF YOUR PURCHASE

USE CODE: SUPERSTAR

*Terms and Exclusions Apply.
Promotional Details
Offer expires 06/16/24
@ 11:59PM ET

CODY RHODES / CODY RHODES APPAREL / PRODUCT ID: 200117177



Ready To Ship



WWE Officially Licensed Gear

Men's Chalk Line Blue/Red Cody Rhodes Allover Print Retro Shorts

In Stock - This item will ship within 1 business day.

\$31³⁴ with code: Superstar
Offer ends in 5hrs 2min 22sec!

Regular: \$54⁹⁹ as of 06/15/2023

Last purchased more than a day ago

Size SIZE CHART

Quantity

90-DAY RETURNS



World's Largest Collection of Officially Licensed
WWE Gear

You earn \$1.65 FanCash on this item

Shipping

- This item will ship within 1 business day.

Details

Description

Show that adrenaline always courses through your soul each time you sport these Cody Rhodes Allover Print Retro Shorts. They feature unmistakable graphics that let every WWE Universe member know that it's always an American Nightmare for anyone that steps through the ropes to face the second-generation Superstar. The elastic waistband and side pockets offer all the comfort and storage space you need to enjoy every Cody Rhodes match.

HURRY! ENDS IN:

05
HRS
07
MIN
52
SEC

25% OFF YOUR PURCHASE

USE CODE: SUPERSTAR

*Terms and Exclusions Apply.
Promotional Details
Offer expires 09/16/24
@ 11:59PM ET

CODY RHODES / CODY RHODES APPAREL / PRODUCT ID: 200138875



Almost Gone!

Ready To Ship



W Officially Licensed Gear

Men's White Cody Rhodes American Nightmare Tank Top

In Stock - This item will ship within 1 business day.

\$22⁴⁹ with code: Superstar
Offer ends in 5hrs 7min 52sec!
Regular: \$29⁰⁰

Coupon ☐ Apply Code Here!

🛒 Last purchased 2 hours ago

Size

SIZE CHART

S M L XL 2XL

Quantity

1

Add to Cart

90-DAY RETURNS



World's Largest Collection of Officially Licensed
WWE Gear

You earn \$0.30 FanCash on this item ⓘ

Shipping

- This item will ship within 1 business day.

Details

Description

Featuring a classic scoop neck design, this American Nightmare cotton tank top is a comfortable piece of gear to highlight your love for Cody Rhodes. The front shows off official graphics of your favorite WWE Superstar to ensure your fandom is clear. Perfect for warm-weather, this breezy tank is just the addition any Cody Rhodes fan needs in their wardrobe.

EXHIBIT 7

8:26



FATTMATT1
Posts

Follow



fattmatt1
Anytime Fitness Santa Rosa Ca



14

fattmatt1 New Years Gainsville
January 1, 2022



fattmatt1



11:37



WEAREAMERICANNIGHTMARE

Tagged

Manage



iamoscar1118

Lincoln Financial Field



30 likes

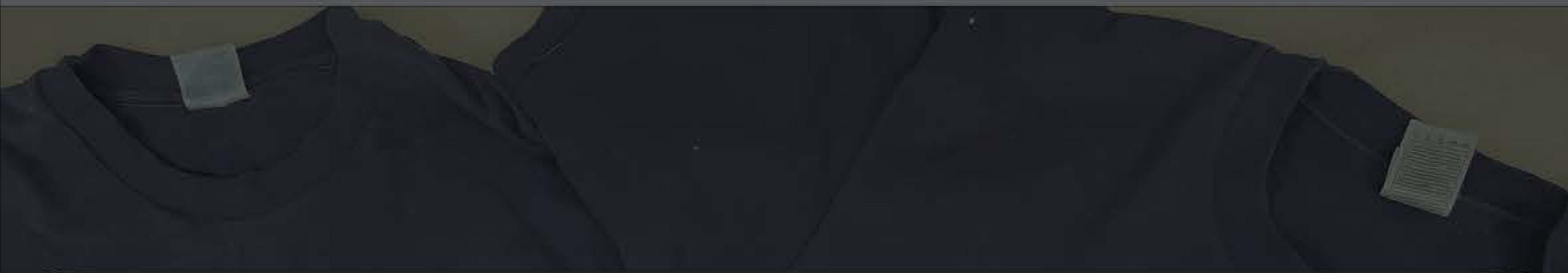
iamoscar1118 Finished The Story. [#codyrhodes](#)
[#prowrestling](#) [#wrestlemaniaxl](#) [#philadelphia](#)
[#mamarhodes](#)

View all 3 comments

April 9



anpaperwallet



In this photo



weareamericannightmare 
AMERICAN NIGHTMARE